

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Mildred W. Finch, et al.,)	
)	
Plaintiffs,)	Case No. C-1-02-132
)	
vs.)	
)	
George Fiorini, et al.,)	
)	
Defendants.)	

O r d e r

On August 19, 2003, this Court issued an Order decertifying the previously-certified class in this matter and denying Plaintiffs' motion for certification of a revised class. The Court expressed concern, *inter alia*, about the adequacy of representation requirement embodied in Rule 23(a)(4) of the Federal Rules of Civil Procedure.

Within days after the issuance of that order, Plaintiffs had filed another motion for certification of a class (Doc. 72). At a November 18, 2003, conference with counsel in this matter, the Court **DENIED** that motion on the basis of a failure by Plaintiffs to demonstrate that the adequacy of representation requirement is satisfied. The Court further observes that Plaintiffs and their counsel have not demonstrated that they will fairly represent the interests of other members of the putative class who have filed their own lawsuits in this and other courts. Plaintiffs, through their counsel, have declined

to participate in various of the joint efforts of other members of the potential class to resolve their claims arising from some of the conduct that also gives rise to Plaintiffs' claims. For those reasons, the Court continues to be unpersuaded with respect to the requirement of Rule 23(a)(4).

The Court observes that Plaintiffs have filed a motion for default judgment against Defendant Quatkemeyer (Doc. 76). The Court notes, however, that default has not been entered as to Defendant Quatkemeyer. Accordingly, the Court **REFERS** Plaintiffs' motion (Doc. 76) to the Clerk for entry of default, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, if appropriate. In the event that default is entered, Plaintiffs' may renew their motion for default judgment.

The Court will conduct a conference of all counsel on Tuesday, December 2, 2003, at 12:00 Noon. Any out-of-town attorney who wishes to participate by telephone must notify Courtroom Deputy Mary Brown by 4:00 p.m. on Monday, December 1.

IT IS SO ORDERED.

_____/s/
Sandra S. Beckwith
United States District Judge